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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/613,296

07/03/2003

Bruce William Lavash

9322

3945

27752 7590 09/27/2007

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

09/27/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/613,296

Applicant(s)

LAVASH, BRUCE WILLIAM

Examiner

Jacqueline F. Stephens

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6 and 9-15 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 9-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/15/07 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 8/15/07 have been fully considered but they are not persuasive. Applicant argues Chen US 20030083631 does not provide any disclosure relating to the extensibility of the top layer, much less a top layer having a zone of enhanced extensibility in registry with a zone of extensibility of an absorbent core layer that is decoupled from the attachment zones of the garment fastening means. However, as previously argued by the Examiner, Chen teaches the crease lines and shaping lines are created by bonding the cover to the absorbent material. Chen teaches embossing, slitting, and various methods for creating crease lines and shaping lines in the core and a portion of the facing layer (paragraph 0050). Chen further teaches the crease lines and shaping lines create a flexible material, which allows the layers to be folded and

reducing bending stiffness along the shaping lines (paragraphs 0051-0052). The layers are capable of extending in a downward or upward direction. Therefore, the crease lines and shaping lines creates zones of enhanced extensibility. Furthermore, Chen teaches elastic components to impart zones of extensibility, specifically to the absorbent layers. In paragraphs 0066-0068, Chen teaches an outer shaping member as part of the absorbent layer, the outer shaping member being extensible, and thus providing zones of extensibility. Chen teaches the shaping lines permit upward deflection of the absorbent independent of the backsheet, which contains the attachment zones (paragraph 0098). Therefore, the limitation of a top layer having a zone of enhanced extensibility in registry with a zone of extensibility of an absorbent core layer that is decoupled from the attachment zone of the garment fastening means is satisfied by Chen.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 is dependent on cancelled claim 8. The scope of the claims cannot be determined.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1, 2, 5-6, and 10-15 are rejected under 35 U.S.C. 102(a) as being anticipated by Chen et al. US 2003/0083631.

As to claims 1 and 15, Chen discloses an absorbent article having a longitudinal axis and a periphery, the absorbent article comprising;

a. a fluid permeable facing layer 85, (paragraph 0050 and 0089 as discussed above) at least a portion of which is extensible

b. a first absorbent layer 78 joined to the facing layer, the first absorbent layer comprising at least one first absorbent layer zone of extensibility 77; Chen teaches elastic components to impart zones of extensibility, specifically to the absorbent layers. In paragraphs 0066-0068, Chen teaches an outer shaping member as part of the absorbent layer, the outer shaping member being extensible, and thus providing zones of extensibility. Chen teaches a second absorbent layer 74 disposed between the first absorbent layer and the backsheet and joined to the backsheet where the first absorbent layer is decoupled from both the second absorbent layer and the attachment zones of the fluid impermeable backsheet (Figure 6).

c. a liquid impermeable backsheet 82 joined to the facing layer at the periphery;

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d. fastening means disposed on at least a portion of the garment facing surface (Table 1) defining attachment zone; and

e. wherein at least a portion of the first absorbent layer is decoupled from the attachment zone of the fluid impermeable backsheet (Figure 6).

As to claim 2, the at least one first absorbent layer zone of extensibility comprise slits 77.

As to claim 5, the article comprises a second absorbent layer 74, the second absorbent layer being joined to the backsheet and decoupled from the second absorbent layer and the attachment zones of the backsheet (Figure 6, 8B, paragraphs 0098 and 0108).

As to claim 6, see Figure 6.

As to claim 10, see Figure 11 and paragraphs 01107 and 0040.

As to claim 11, see Figure 11.

As to claim 12, see paragraph 0118 where Chen discloses a secondary layer.

As to claim 13, see claim 0118, where Chen discloses an apertured film cover.


As to claim 14, see Table 1, materials for topsheet.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jacqueline F Stephens  
Primary Examiner  
Art Unit 3761

September 20, 2007